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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,416	02/10/2004	John Roger Sampson	SAMP-US1	1047

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EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,416

Applicant(s)

SAMPSON, JOHN ROGER

Examiner

Carlos Lopez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/582,232.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Priority

It is noted that claims 12-22 are not being granted priority back to its US Application Number 09/582,232 filed on 07/24/2000, nor the UK application number 9801797.3 filed 01/28/1998 because both applications do not support the claimed hand-rolling limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1) Claims 1,4-12,15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedge (US 3805803) in view of Hayden et al (US 5109876). Hedge discloses a tobacco rod comprising a blend of shredded tobacco and reconstituted tobacco (Example 2). The reconstituted tobacco is treated with activated carbon having a particle size less than 150 microns and may comprise up to 50% by weight (Column 1, lines 20ff). The reconstituted tobacco may be in the form of a sheet (Column 1, lines 57-62). Hedge is silent disclosing the claimed porosity of the tobacco rod wrapper. However, as taught by Hayden et al wrappers typically have an inherent porosity below 400 C.U (Column 3, lines 53-64). Hence, at the time the invention was made it would

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have been obvious to a person of ordinary skill in the art to wrap Hedge's tobacco rod with a conventional cigarette wrappers absent any indication by Hedge.

Additionally, in view that the cigarette resulting from teachings of Hedge and Hayden would meet the claimed structural limitations it is reasoned that the claimed functional limitations of a reduced sidestream smoke as recited in Applicant's claims 4-9 and 15-20 would be expected to be met by the combined teachings of Hedge and Hayden.

As for claim 12, cigarettes have been conventionally been made by either using a machine or a by hand. When making a cigarette by hand the operator uses a cigar rolling method to wrap the tobacco on a wrapper. Hence, it would be obvious to a person of ordinary skill in the art to have used either method, a hand rolling method or used a machine to manufacture the cigarette resulting from the combined teachings of Hayden and Hedge.

As for claims 10-11 and 21-22, the fact the Hayden discloses cigarette wrappers having a range below 400 C.U, clearly envisage the claimed 25-180 C.U. No unexpected results in using a lower range of Hayden's disclosed C.U values would be achieved and reasonable expectation of success would be expected if using lower C.U values.

2) Claims 2-3 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedge (US 3805803) in view of Hayden et al (US 5109876) as applied to claim 31 above and in further view of Raker et al (US 5261425). Hedge and Hayden are silent disclosing sources of carbon. However, the claimed sources of carbon are well known

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in the art as disclosed by Raker (Column 12, lines 40ff). Hence, at the time the invention was made it would have been obvious to a person of ordinary skill in the art to use carbon particles with the cigarette resulting from the combination Hedge and Hayden with conventional sources of carbon particles as taught by Raker et al.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, consisting of a stylized 'L' followed by a 'Z'.

C.L